

University of Groningen

## Autonomy Without Paradox

Kleingeld, Pauline; Willaschek, Marcus

*Published in:*  
Philosophers' Imprint

*DOI:*  
[2027/spo.3521354.0019.006](https://doi.org/2027/spo.3521354.0019.006)

**IMPORTANT NOTE:** You are advised to consult the publisher's version (publisher's PDF) if you wish to cite from it. Please check the document version below.

*Document Version*  
Publisher's PDF, also known as Version of record

*Publication date:*  
2019

[Link to publication in University of Groningen/UMCG research database](#)

*Citation for published version (APA):*

Kleingeld, P., & Willaschek, M. (2019). Autonomy Without Paradox: Kant, Self-Legislation and the Moral Law. *Philosophers' Imprint*, 19(6), 1-18. <https://doi.org/2027/spo.3521354.0019.006>

### Copyright

Other than for strictly personal use, it is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), unless the work is under an open content license (like Creative Commons).

The publication may also be distributed here under the terms of Article 25fa of the Dutch Copyright Act, indicated by the "Taverne" license. More information can be found on the University of Groningen website: <https://www.rug.nl/library/open-access/self-archiving-pure/taverne-amendment>.

### Take-down policy

If you believe that this document breaches copyright please contact us providing details, and we will remove access to the work immediately and investigate your claim.

*Downloaded from the University of Groningen/UMCG research database (Pure): <http://www.rug.nl/research/portal>. For technical reasons the number of authors shown on this cover page is limited to 10 maximum.*

# Autonomy Without Paradox: Kant, Self-Legislation and the Moral Law

Pauline Kleingeld & Marcus Willaschek

*University of Groningen & Goethe University, Frankfurt am Main*

© 2019 Pauline Kleingeld & Marcus Willaschek

*This work is licensed under a Creative Commons*

*Attribution-NonCommercial-NoDerivatives 3.0 License.*

*<[www.philosophersimprint.org/019006/](http://www.philosophersimprint.org/019006/)>*

## Introduction

The notion of autonomy—for which the term “self-legislation”<sup>1</sup> is also used—is central both to Kant’s ethics and to most contemporary versions of Kantian ethics. According to a widespread view, Kant claims that autonomy consists in the self-legislation of the principle of morality, the *Moral Law*.<sup>2</sup> The Moral Law (and thus the Categorical Imperative)<sup>3</sup> is not given to us heteronomously, by some authority external to our will such as God, nature, or tradition. Rather, we give the Moral Law to ourselves. More precisely, on this line of interpretation, Kant claims that *our will* gives the Moral Law *to itself*. This standard reading is shared by “constructivist” and “realist” readers of Kant alike. It has inspired recent philosophical defenses of Kantian constructivism, according to which moral requirements are the outcome of (actual or counterfactual) deliberative procedures internal to practical reason (see, e.g., Rawls 1980; Korsgaard 1996; O’Neill 1989, 2004; Reath 1994, 2013). Leading defenders of realist interpretations of Kant’s ethics resist the idea that moral obligation depends on a volitional act on the part of the agent, but they too assume that Kant *explicitly claims* that the Moral Law is self-legislated in some (perhaps merely metaphorical) sense (e.g., Ameriks 2000; Guyer 2007; Schönecker 1999; Stern 2012; Wood 2008).

To be sure, most commentators regard Kant’s conception of moral autonomy as requiring at least careful qualification, and many view it

1. “Autonomy” derives from the Greek words for “self” and “law”. The word *αὐτόνομος* means “living under one’s own laws” or “independent”. In current usage, autonomy is often understood as “self-determination”, but this is not part of Kant’s understanding of the term, as will become clear in the discussion to follow.
2. We use capitalization when referring to the highest moral principle in order to distinguish the one Moral Law from the many substantive moral laws (lower case). We do not impose this typographical distinction on quotations, however.
3. The Categorical Imperative is the prescriptive expression of the Moral Law (singular). Kant argues that while the Moral Law holds for all rational beings (including God), the Categorical Imperative addresses only sensible beings with inclinations that can tempt them to act contrary to the Moral Law (see G 4:413, 454–5).

as highly problematic. This is because, on the standard reading, there is something deeply paradoxical about it. If the obligatory force of the Moral Law depends on an act of self-legislation, this seems to belie the very unconditionality and necessity that Kant regards as the hallmark of morality. Not surprisingly, similar criticisms are frequently directed against contemporary defenses of Kantian constructivism. Kant scholars and Kantians have developed a wide variety of responses to these charges, but they have not questioned their shared underlying premise. It is taken for granted that Kant says that the Moral Law is self-legislated.

In this paper, we would like to challenge this standard reading on both textual and philosophical grounds. We argue for the following theses: (i) Kant never explicitly and unequivocally claims that the principle of morality, the Moral Law, is self-legislated (not even in a merely metaphorical sense), and (ii) he is not philosophically committed to such a claim by his overall conception of morality. In particular, Kant does not claim that the binding force of the Moral Law depends on its being self-legislated. Instead, we argue (iii), in Kant's view the idea of moral autonomy concerns only substantive moral laws (in the plural), such as the law that one ought not to lie (G 4:389) or "the law to promote the happiness of others" (KpV 5:34). In addition (iv), when Kant writes that the principle of morality is the "*principle of autonomy*", this phrase indicates not that the Moral Law itself is self-legislated but rather that the highest moral principle "*commands*" autonomy (G 4:440). Moreover (v), Kant's claim here is that we should act "*as if*" we were giving universal laws through our maxims. He never writes that *we*, human beings as such, *actually* give substantive moral laws; rather, these laws have their source in practical reason. Finally (vi), Kant provides neither a realist nor a constructivist "grounding" of morality. Instead, he defends a third position that comes into view only once we move past the idea that the Moral Law is self-legislated. This is the position that the Moral Law is a fundamental a priori principle of pure practical reason that is not grounded in anything more fundamental.

In section 1, we introduce the standard interpretation according to which Kant claims that the Moral Law is self-legislated, and we discuss the philosophical difficulties associated with Kant's alleged thesis. In section 2, we outline our alternative interpretation on the basis of a discussion of passages that are usually regarded as evidence for the standard view. In section 3, we discuss possible objections to our reading before considering, in section 4, Kant's conception of the apriority of the Moral Law and how this bears on the debate concerning realist and constructivist interpretations of Kant's moral theory.

## 1. The "Kantian Paradox"

### 1.1. Current interpretations and associated difficulties

Leading interpreters describe Kant as claiming that the Moral Law is self-legislated. Jerome Schneewind writes: "[Kant] held that we are self-governing because we are autonomous. By this he meant that we ourselves legislate the moral law" (Schneewind 1998, 6). According to Allen Wood, Kant's idea of autonomy includes both the idea of morality as objectively binding and the idea of "the rational being's will as author or legislator of the moral law" (Wood 2008, 106). This set of quotations could be extended,<sup>4</sup> but even better proof of the pervasiveness of this interpretation is the fact that it is not a matter of live debate. Commentators disagree on how to understand Kant's claim but not on whether he made it.

Many interpreters hold that Kant's conception of the Moral Law as self-legislated serves to account for its unconditional and universal obligatory force.<sup>5</sup> On their interpretation, what Kant means when he writes that "autonomy of the will is the highest principle of morality" (G 4:440) is that it is the source of moral obligation. Oliver Sensen, for example, writes that "Kant sees the significance of autonomy in the

4. Also including, for example, Allison 1990, 237; Engstrom 2009, 149; Reath 2006, 92.

5. Some authors also take it to account for our *motivation* to obey the Moral Law: Klemme 2013, 193; Schneewind 1998, 483.

conclusion that it alone can generate moral obligation" (Sensen 2013, 11, 270).<sup>6</sup>

On the face of it, however, the notion of self-legislation seems ill suited to this task. If an act of self-legislation serves to "generate" moral obligation, this ostensibly contradicts Kant's thesis of the unconditional validity of the Moral Law, for it suggests that there is a condition for its validity after all: the will's act or activity of self-legislation. Equally problematically, if moral obligation depends on an act of one's will, it seems that one can release oneself from moral obligation by abolishing the Moral Law in a second act. It is clear, however, that this type of voluntarism is absolutely contrary to Kant's view. Alternatively, if the act of self-legislation is to be non-arbitrary, it needs to be guided by a norm that precedes it — in which case, however, the most fundamental principle is *not* self-legislated. These difficulties have led philosophers who are critical of Kant's account of morality — particularly those working in the Hegelian tradition — to speak of a "Kantian paradox" (e.g., Pinkard 2002; Stern 2012; see also Khurana 2013; Pippin 2000). As Terry Pinkard puts it:

The paradox arises from Kant's demand that, if we are to impose a principle (a maxim, the moral law) on ourselves, then presumably we must have a *reason* to do so; but, if there was an antecedent reason to adopt that principle, then that reason would not be self-imposed; yet for it to be binding on us, it had to be [...] self-imposed. (Pinkard 2002, 59)

Note that this alleged Kantian paradox is structurally similar to a well-known objection against present-day Kantian constructivism to the effect that not *all* normative requirements can be grounded in deliberative procedures (since any such procedure needs to be normatively guided if it is to avoid being arbitrary), and that not all procedures can

be grounded in other procedures (on pain of infinite regress or vicious circularity).<sup>7</sup>

In response to these difficulties, commentators have emphasized the importance of several qualifications with respect to the claim that Kant viewed the Moral Law as self-legislated. First, some have pointed out that this does not imply that the content of the Moral Law is a matter of choice (see, e.g., Kain 2004, 266) since Kant distinguishes between the author (*Urheber*) of the *content* of a law and the author of its *obligatory force* (MdS 6:227). This distinction makes it possible to avoid saddling Kant with the view that the content of the Moral Law is up to us while preserving a sense in which self-legislation applies to the law's obligatory force.

Furthermore, several authors have emphasized that the "self" that legislates the Moral Law is not a personal or individual self. Rather, what Kant means is a form of impersonal lawgiving that is grounded in practical reason as such. It is self-legislation by the will *qua* practical reason, not *qua* will of a particular individual (Ameriks 2000, 13–5; Hill 1992, 88; O'Neill 2013, 286). As Andrews Reath puts it, the Moral Law is "the law that the rational will gives to itself" (Reath 2006, 112).

Despite these qualifications, however, it is difficult to give coherent sense to Kant's alleged claim that the will or practical reason itself is somehow actively involved in generating the obligatory force of the Moral Law. The more one emphasizes the impersonal, a priori, timeless character of autonomy, the harder it is to make literal sense of self-legislation as an *act* or *activity* of the will. Allen Wood articulates a view held by many when he writes that there is a "serious tension in the idea of Kantian autonomy" because the idea that rational beings are themselves legislators of the Moral Law and the idea that the Moral Law is objectively binding pull in opposite directions (Wood 2008, 106).

In their attempt to make sense of Kant's discussion of moral autonomy, some commentators have proposed different ways of

6. For similar claims, see e.g. Klemme 2013, 193; Reath 2013, 36; Schneewind 1998, 6.

7. See, e.g., Enoch 2006 and Larmore 2012 for different versions of this objection.

understanding the notion of self-legislation. A first strategy that suggests itself is that of interpreting self-legislation in a nonreflexive sense. An “automobile” is “self-moving” in the sense that it moves *by* itself, and an “autograph” is self-written; by analogy, one might want to argue that moral “autonomy” simply means that the Moral Law is given *by* oneself, in the sense that it is *one’s own* legislation.<sup>8</sup> This conception of autonomy avoids many of the difficulties mentioned above, but it retains the problematic element of activity that seems to run counter to the unconditionality of the Moral Law.

Many interpreters instead choose to weaken the sense in which the will self-legislates. Andrews Reath, for example, interprets the alleged “self-legislation” of the Moral Law as meaning “that the nature of rational volition (or practical reason) supplies its own internal or formal principle” (i.e., the Categorical Imperative). The “element of activity”, of “giving law”, he adds, amounts to the fact that “subjects engaged in certain forms of rational activity understand themselves to have certain formal aims and are normatively guided by their self-consciousness of these formal aims” (Reath 2013, 47). Here “giving” the Moral Law to oneself is understood as recognizing that it originates in one’s own will and being guided by it in one’s rational activity.

A third strategy is to point out that there are several passages in which Kant writes that we should “view” or “regard” ourselves as self-legislating. On this basis, Allen Wood suggests that we do best to treat Kant’s language of self-legislation as “just a way of *considering or regarding*” the Moral Law, and that what Kant “really” means is that its content and authority are “independent of any possible volitional act we might perform” (Wood 2008, 110). In other words, Wood maintains that while Kant describes the Moral Law as self-legislated, this is best interpreted non-literally, merely as a manner of speaking.<sup>9</sup>

8. Sensen mentions another possible non-reflexive reading of “self-legislation”, namely as a law-giving “of its own kind”, which, he argues, expresses that the Categorical Imperative is “unconditioned by foreign determinants” (2013, 269–70).

9. Some of those who read Kant as defending a realist position also de-emphasize the “legislation” aspect in the notion of autonomy. Paul Guyer, for

What each of these three interpretive proposals preserves is the idea that reason is the *source* of both the content and the obligatory force of the Moral Law. Importantly, however, Kant can express *this* idea without having to describe the origin of the validity of the Moral Law in terms of self-legislation. Indeed, we shall argue that Kant does not in fact claim that the Moral Law is self-legislated.

### 1.2. Neither autonomy nor heteronomy of the Moral Law

An often-mentioned *philosophical rationale* for why Kant must describe the Moral Law as self-legislated is that this is necessary to account for the possibility of unconditional moral obligation. The thought is that the Moral Law *must* be conceived as self-legislated because otherwise it would be (or would have to be regarded as) an alien (“heteronomous”) imposition by some external authority, in which case its binding force would be conditional on our having an interest in obeying the relevant authority (say, in light of the prospect of reward or punishment) (see Allison 1990, 237; Hill 1992, 76–96; Kain 2004, 288; Timmermann 2007, 104; Wood 2008, 117).

What is overlooked on this line of reasoning is that the binding force of the Moral Law can be non-heteronomous in origin *without* being the result of self-legislation. The third option, which is a possibility to which Reath’s and Wood’s non-literal readings actually point, is that the Moral Law is neither self-legislated nor imposed from without, since it is a fundamental *a priori* principle of practical reason (or, since Kant identifies the will with practical reason, a fundamental *a priori* principle of the will). If the Moral Law is an *a priori* principle of practical reason itself, the obligatory force of which we come to acknowledge in practical deliberation, this suffices to account for its

example, interprets Kant’s notion of autonomy as an individual and social goal to be realized through adherence to the Categorical Imperative, namely as a condition in which individual and collective freedom is possible to the greatest extent (Guyer 2007, 10, 68). Karl Ameriks views Kant’s theory of autonomy as a metaphysical theory about our status as uncaused causes (a theory which, in his view, suffers from the problems connected with Kant’s defense of free will; see Ameriks 2000, 17).



universality, unconditionality, and non-heteronomous origin. And if its normative validity is something we come to acknowledge in practical deliberation, we do not first establish it through an act of the will, and thus its validity is not conditional on anything else.

In other words, the assumption that the origin of the normative authority of the principle of morality lies either in autonomy or in heteronomy is based on the disputable presupposition that the obligatory force of the Moral Law must be *grounded* in something more fundamental (be it a value, as many realists assert, or a principle or activity related to agency, as constructivists assert). Beyond the autonomy/heteronomy dichotomy lies a third, overlooked possibility — namely that Kant's Moral Law, as the most fundamental practical principle, does not have a deeper “ground”. That is to say, what remains open is the possibility that the Moral Law is neither self-legislated nor legislated by someone (or something) else.

Consequently, if it turns out that Kant does not actually state that the Moral Law is self-legislated, this does not necessarily commit him to a “heteronomous” conception of morality. If we can show that Kant views the Moral Law as an a priori and foundational principle of reason, this at once gets rid of the difficulties associated with the paradoxical idea that the principle of morality is self-legislated. (We will return to Kant's account of the origin and bindingness of the Moral Law in section 4.)

But what, then, is the import of Kant's notion of moral autonomy, and how does it relate to the Moral Law? What does it mean to say, as Kant does, that autonomy is the highest principle of morality? And how should we interpret the texts that are usually taken to show that Kant claims that the Moral Law is self-legislated? In the next section, we argue that Kant uses the idea of moral autonomy to articulate the procedure for determining the moral permissibility of maxims and thus for deriving substantive moral laws; autonomy does not concern the origin and binding force of the Moral Law.

We shall present our alternative account on the basis of texts that are usually cited in support of the claim that Kant describes the Moral

Law as self-legislated. There are three sets of passages that are crucial for any understanding of Kant's conception of autonomy and for determining whether he argues that the Moral Law is self-legislated: Kant's discussion of the so-called Formula of Autonomy (G 4:431–6), along with his subsequent discussion of “autonomy of the will as the supreme principle of morality” (G 4:440), all in *Groundwork* II; his identification of freedom of the will and autonomy at the beginning of *Groundwork* III (G 4:447); and his claim, in the *Critique of Practical Reason*, that reason gives human beings the Moral Law (KpV 5:32), along with the ensuing discussion of autonomy of the will (KpV 5:33). In addition, we will consider several relevant isolated formulations.

## 2. An Alternative Reading of Kant's Conception of Moral Autonomy

### 2.1. Kant's introduction of autonomy in *Groundwork* II

In the *Groundwork*, Kant introduces the notion of autonomy after discussing the Formula of Universal Law (FUL) and the Formula of Humanity (FH), and right after mentioning a third formulation of the Categorical Imperative, which he initially expresses in terms of the “idea of the will of every rational being as a universally law-giving will” (G 4:431). He adds that this “idea” — which he calls the “third practical principle of the will” — is to be understood in terms of the will's being “viewed” or “regarded as” *self-legislating*:

In accordance with this [third] principle all maxims are rejected that cannot coexist with the will's own universal legislation. The will is thus not merely subject to the law but subject in such a way that it must also be viewed as *self-legislating*<sup>10</sup> [*selbstgesetzgebend*] and precisely for that reason subject to the law in the first place (of which it can regard itself as author). (G 4:431, orig. emphasis)

10. Some English translators give “legislating to itself” or “giving the law to itself” (e.g., Allen Wood and Mary Gregor). “Self-legislating” is closer to the German original and preserves the connotation that the legislating is done *by* the self, without suggesting that the self is the primary addressee of the law. For more discussion, see Kleingeld 2018, 172–4.

If the law that Kant mentions here were the Moral Law, Kant would be claiming that the principle of morality is self-legislated by the will. If we look more closely, however, we see that this is not in fact what he is claiming. First, there is no *explicit* indication that the law in question is the Moral Law. Kant does not refer to the principle of morality at all in the preceding passages. Hence the expression “the law” in this passage could also refer to any substantive moral law.

Second, Kant explains what he means by “the will’s own universal legislation” by restating the third practical principle as the “*principle of every human will as a will that is universally legislating through all its maxims*” (G 4:432, orig. emphasis), and he later refers to this principle as “the principle of autonomy” (G 4:433). The fact that Kant formulates the principle of autonomy in terms of (*self-*)*legislating through one’s maxims* suggests that the law that is regarded as self-legislated is not the Categorical Imperative itself but rather the universal law *mentioned in it*. After all, the Categorical Imperative requires that the maxim of our action be able to hold simultaneously as *universal law*, or, in an alternative formulation, that we regard ourselves as giving *universal law* “through all maxims” of our will (see G 4:433, 4:436–7).

Third, because this law is conceived as *universal*, it includes the agent in its scope. Thus this law must be viewed as self-legislated in a twofold sense: as given by oneself and, because it includes oneself in its scope, as also addressing oneself. The fact that I must regard myself as author of the moral laws to which I am subject says something important about my relation to those laws, namely that they are not alien impositions but expressions of my own will. Kant stresses this idea in many other passages as well, for example when he writes that:

every rational being, as an end in itself, must be able to regard itself at the same time as universally law-giving with respect to all laws he may ever possibly be subject to. [...] [E]very rational being must act as if he were through his maxims at all times a lawgiving member of the universal realm of ends. The formal principle of these maxims

is: Act as if your maxim were to serve at the same time as a universal law (for all rational beings).<sup>11</sup> (G 4:438)

Fourth, it is important to note that Kant introduces the idea of autonomy counterfactually: he states not that the law to which he refers *is actually* self-legislated but that it must be *viewed as* self-legislated, that one must *regard* oneself *as* its author, and that one must act *as if* one were giving universal law. As mentioned above, Wood (2008, 111) also draws attention to these expressions. He interprets them, however, as referring to a way of considering the *Moral Law*. By contrast, on the interpretation we propose the counterfactual idea of self-legislation concerns substantive *moral laws* exclusively.

In sum, in the very passage in which Kant introduces the notion of autonomy, the law that is presented as self-legislated is not the Moral Law or Categorical Imperative itself but rather the substantive universal law *mentioned in it*. Moreover, the idea of the will as self-legislating is introduced as providing a way of “viewing” or “regarding” the will, not as referring to a genuine act of legislation.<sup>12</sup>

A second passage that might be seen to provide support for the thesis that the Moral Law is self-legislated is the following description

11. Since “all laws he may ever possibly be subject to” (in the first sentence of the quoted passage) are here viewed as stemming from one’s own universal legislation, and since one is subject to the Moral Law, this passage might seem to suggest that the Moral Law should also be viewed as self-legislated. The reference to maxims and the wider context make clear, however, that it makes much more sense to read the quoted passage as addressing only universal legislation through one’s maxims, and hence only moral laws in the plural. Another consideration against assuming that the universal laws mentioned in the quoted passages include the Moral Law itself is the fact that Kant mentions the Moral Law separately as the “formal principle of these maxims”.
12. Note also that while Kant uses the term “autonomy” (*Autonomie*) 25 times in the *Groundwork*, he does not speak of “self-legislation” (*Selbstgesetzgebung*) at all and uses “self-legislating” (*selbstgesetzgebend*) only once (in the passage at G 4:431 discussed above). Instead, Kant generally speaks of “universal legislation” (e.g. G 4:432), a term that implies that the relevant laws are self-legislated in the sense indicated above, namely in the sense of being given *by* oneself to all and hence as *also* applying to oneself.

of what is meant by “autonomy of the will”, along with the canonical articulation of the Formula of Autonomy:

Autonomy of the will is the property of the will by which it is [...] a law to itself. Hence the principle of autonomy is: not to choose in any other way than thus, that the maxims of [the will’s] choice are comprehended (*mit begriffen*) in the same volition as universal laws. (G 4:440)

Again, however, this passage does not state explicitly that the principle of morality itself is self-legislated. Kant explains what it means to say that autonomy consists in the will’s being “a law to itself” by saying that the principle of autonomy requires a certain way of *choosing one’s maxims*. One ought to act only on maxims that one can simultaneously will (“comprehend in the same volition”) as universal laws for all rational beings, including oneself. The universal laws of which Kant speaks here are those that are formulated by universalizing our maxims. This is confirmed by another passage where Kant identifies “autonomy” of the will with the will’s property of “being a law to itself” and explains this expression as follows:

[T]he proposition, the will is in all its actions a law to itself, indicates only the principle to act on no other maxim than that which can also have as object itself as a universal law. (G 4:447)

Here, too, Kant first characterizes autonomy as the will’s being a law to itself and then explicates this in terms of the principle of acting only on maxims that one can also will as universal laws. Again, there is no mention of self-legislation of the Moral Law.<sup>13</sup>

13. *Even if* the law referred to in these two passages were the Moral Law, the phrase “being a law to itself” would not necessarily imply that this law is *self-legislated*. This phrase, which was widely used in philosophy prior to Kant, echoes Paul, who says of certain heathens that they are “a law unto themselves” (Romans 2.14), meaning roughly that they find the divine commandments within their hearts without having been instructed by divine revelation (thanks to Stefano Bacin for making us aware of this, see Bacin 2013, 61).

Furthermore, when Kant calls the Moral Law the principle of autonomy (G 4:440), he presents it as *commanding* autonomy, not as *resulting from* it. Since our will is affected by sensible inclinations that tempt us to act on maxims that fail to meet the moral requirement, the principle of autonomy takes a prescriptive form for us. Hence, Kant writes, the principle of autonomy, as the supreme principle of morality, is a “categorical imperative” that “commands neither more nor less than this autonomy” (G 4:440). Nothing in the wording of the passage under consideration suggests that either the content or the obligatory force of the Moral Law is the result of the autonomy (understood as self-legislation) of the will.

In sum, although these passages might seem at first to suggest that Kant argues that the Moral Law is self-legislated, none of them actually establishes this. Rather, Kant uses the idea of moral autonomy to describe a counterfactual criterion for determining the moral permissibility of maxims and to indicate that substantive moral laws must be viewed as the will’s own laws.

## 2.2. *The one Moral Law and the many moral laws*

The passages discussed so far indicate that there are two levels at which Kant speaks of moral law.<sup>14</sup> First, Kant uses the expression “moral law” to refer to the principle of morality; these are the cases in which we capitalize it as “Moral Law”. The Moral Law, which for human beings takes the form of the Categorical Imperative, formulates the normative criterion that ought to guide our adoption of maxims. What it tells us to do is to conceive of ourselves as moral legislators who give universal laws through their maxims — laws to which, because they are *universal*, we ourselves are subject — and to act only on maxims

Hence, even if Kant were here referring to the Moral Law, this would indicate only that it is a priori, not that it is self-legislated.

14. Other commentators have also emphasized the importance of distinguishing between these two levels of moral legislation (e.g., Kain 2004; Reath 2006), yet they tend to associate Kant’s conception of autonomy with both. On the interpretation we propose, by contrast, Kant speaks of autonomy *only* at the level of substantive moral laws, not at the level of the Moral Law.



that we can simultaneously will as universal laws. In other words, the Moral Law in the singular is a meta-principle that demands that we regard ourselves as legislating, and *self*-legislating, universal laws in the plural. It is a *formal* principle in that it abstracts from all empirical *matter* of the will (i.e., from desires, inclinations, etc.) and thus determines specific moral obligations only when applied to particular maxims. If a maxim fails to meet this normative criterion, it is impermissible to act on it, and in this way the moral criterion leads to the formulation of substantive moral laws — moral laws at a second level. Accordingly, when discussing autonomy Kant typically speaks of “moral laws” in the plural. For example, he writes: “The autonomy of the will is the sole principle of all moral laws and the duties that correspond with them” (KpV 5:33). Kant mentions examples such as “the law to promote the happiness of others” (KpV 5:34), the “ethical law of perfection: love your neighbor as yourself” (MdS 6:450; see also KpV 5:83), and “the [law] of integrity” (G 4:401n.). When arguing that a law can count as a *moral* law only if it is absolutely necessary, he illustrates this with “the command: thou shalt not lie” and adds “and so with all other moral laws properly so called” (G 4:389).

Thus, the application of the formal *Moral Law* (Categorical Imperative, principle of morality) to particular maxims results in the formulation of substantive *moral laws* (moral commands), such as “one ought never to lie”, “one ought to promote the happiness of others”, and so on. If, in light of the Moral Law, a certain maxim turns out to be morally impermissible, then the maxim is impermissible not just for me but for *all* rational beings (including myself), which means that it is a moral duty not to act on it. Conversely, if a candidate maxim turns out to be morally permissible, it is permissible for *everyone*.

### 2.3. Self-legislation and subjection to the law

We can now turn to further *Groundwork* passages that do not mention autonomy explicitly but that might be taken to indicate that Kant defends the thesis that the Moral Law is self-legislated. Kant writes:

[T]here is indeed no sublimity in [the person who fulfills all his duties] insofar as he is *subject* to the moral law [*dem moralischen Gesetz unterworfen*], but there certainly is insofar as he is at the same time *lawgiving* with respect to it and only for that reason subordinated to it. (G 4:440, orig. emphasis)

It is unclear from this sentence, when read in isolation, whether the phrase “the moral law” refers to the Moral Law or whether it should be understood as a generic singular, meaning “any moral law” and thus referring to substantive moral laws in general. Also, it may seem that “lawgiving” is meant here in a literal sense.

The context makes clear, however, that this passage fits with our interpretation of the passages discussed above. First, the sentence immediately preceding the quotation shows that Kant is describing not a genuine act of lawgiving by the agent but a way of representing that agent: he states that under the concept of duty we not only “think” of subjection under the law but also “represent” a certain sublimity and dignity (G 4:439–40). This allows for the possibility that the “lawgiving” mentioned in the quoted sentence also has the status of a thought or representation in the sense that the moral agent *regards* himself as legislating.

Second, Kant does not mention the Moral Law (or the “principle of morality”) at all in the page leading up to the quoted passage, whereas he does mention “laws of autonomy” in the plural (G 4:439) and universal legislation *through our maxims* (G 4:439, 440). This is indeed the theme with which he continues in the remainder of the same paragraph (“a possible giving of universal law through [the will’s] maxims”, G 4:440). In short, when read in context, the sentence under consideration does not show that Kant argues that the Moral Law is (or should be regarded as) self-legislated, let alone that self-legislation of the Moral Law is the condition of its universal and unconditional validity.

In several passages in the *Groundwork*, Kant discusses the feeling of respect. Some of these passages might also seem to lend support

to the view that Kant claims that the Moral Law is self-legislated. He writes, for instance, that “[t]he *object* of respect is therefore simply the *law*, and indeed the law that we impose upon *ourselves* and yet as necessary in itself” (G 4:401n.).

As in the other passages discussed above, Kant does not explicitly state that it is the Moral Law that we “impose upon ourselves”. The phrase “the law” can also be read as a generic singular, in the sense of “any moral law as such” or “the substantive moral law in question”. That this is indeed the better reading is supported by the fact that Kant then adds that “[a]ny respect for a person is properly only respect for the law (*of integrity and so forth*), of which [the person] gives us the example” (G 4:401n.; emphasis added). Kant’s parenthetical explanation of what he means by “the law” — namely the law “of integrity and so forth” — shows that he is referring not to the Moral Law but to substantive moral laws in general. *These* are the laws that we are said to impose on ourselves as we subject ourselves to them.

Finally, at G 4:444 Kant again says that the will of every rational being “imposes [a law] upon itself”, and here he seems to be referring to the Moral Law. Kant is not using the vocabulary of “legislation” in this passage, however. “Imposing upon itself” is not the same as “self-legislating”, and it may well be understood as a variant of the language of “subjecting” oneself to the Moral Law, which Kant uses in other passages (e.g., G 4:449). In the quote with which we started this subsection (G 4:440), Kant explicitly distinguishes *subjection* to a law from *legislation*. Therefore, if Kant is asserting that we impose the Moral Law upon ourselves (or, equivalently, subject ourselves to it) in the passage under consideration, this does not imply that we self-legislate it. Instead, Kant’s assertion is probably best understood as indicating that humans *acknowledge* the authority of the Moral Law, not that they *establish* its binding force by an act of will. This idea is expressed more clearly in the final pair of texts we shall consider, to which we now turn.

#### 2.4. Reason’s *Grundgesetz* for human beings

Thus far, we have considered the relevant passages from the *Groundwork*, but there are also important passages in the *Critique of Practical Reason* that can be taken to suggest that Kant grounds the binding force of the Moral Law in its being self-legislated. These are passages in which Kant argues that pure reason gives the Moral Law to humans and in which he discusses the emergence of the consciousness of moral obligation and the feeling of respect for the law.

In the Analytic of the second *Critique*, having established the “Fundamental Law [*Grundgesetz*] of Pure Practical Reason”, Kant formulates the following “Corollary” (*Folgerung*, conclusion):

Pure reason is practical of itself alone and gives (to the human being) a universal law which we call the *moral law*.  
(KpV 5:31, orig. emphasis)

For the purposes of our discussion we shall assume that Kant here refers to the Moral Law, rather than to the legislation of substantive moral laws.<sup>15</sup> Nevertheless, there is good reason to doubt that this passage provides support for the standard interpretation. Kant does not say here that the validity of this law depends on an act of self-legislation. In fact, he does not identify the legislator of the law with the subject of the law, so there is no “self” that is both legislator and addressee of the law. Rather, by adding the parenthetical remark Kant clarifies that *pure practical reason* gives this “moral law” *to the human being* as a being that has a rational and sensible nature.

The Corollary concerns the question of how we can *become aware* of a Moral Law that is supposed to determine our will independently of any sensible motives. Kant’s answer is that this awareness results not from any empirical data but from our own reason: “Consciousness of this fundamental law may be called a fact [*Factum*] of reason” (KpV 5:31). The primary meaning of the term “*Factum*” in Kant’s era was still “deed” or “product”, not “matter of fact” (Willaschek 1992, Kleingeld

15. Even in this passage there is a certain ambiguity, and it is not impossible to read “the moral law” as a generic singular, referring to substantive moral laws.

2010). So the idea Kant expresses in the Corollary is simply that our consciousness of moral obligation stems from reason, not from empirical sources.

Note that the “giving” of the law to which Kant refers here can be read either in the sense of “legislation” (lawgiving) or in the sense of the law’s being made cognitively available or being “presented” to us — that is, in the sense in which Kant says in the first *Critique* that objects are “given” to us in intuition. Perhaps these two ways of reading the expression represent two sides of the same coin. On the one hand, if the Moral Law is a fundamental a priori principle of pure practical reason, then humans, by virtue of their rational nature, are indeed *presented* with this principle. Kant says immediately before the Corollary that our consciousness of the Moral Law can be called a “fact of reason” because it “forces itself upon us” without being “based on any intuition, either pure or empirical” (KpV 5:31). On the other hand, if the Moral Law is a fundamental a priori principle of pure practical reason, then it presents itself to humans as a law with rationally binding force, insofar as humans, due to their sensible nature, do not necessarily act in accordance with rational principles:

[I]n order to avoid misinterpretation in regarding this law as *given*, it must be noted carefully that it is not an empirical fact but the sole fact of pure reason, which, by it, announces itself as originally lawgiving (*sic volo, sic jubeo*). (KpV 5:31, orig. emphasis)

From this the “Corollary” indeed follows: the Moral Law is given to us (human beings) by pure practical reason. We can leave it undecided whether one should read “gives” in the Corollary in the sense of pure reason’s “presenting” humans with the Moral Law or in the sense of pure reason’s “legislating” the Moral Law (or both). Either way, Kant is not stating that pure reason gives the Moral Law to pure reason, or that the human being gives it to the human being. Thus, Kant does not claim in this passage that the Moral Law is “self-legislated”, let alone that its binding force depends on this.

There is one final passage from the *Critique of Practical Reason* that merits discussion, namely the (rather dense) passage from the second chapter where Kant mentions “reason’s representation” of a “law of freedom that reason gives to itself” (KpV 5:65). If by “law of freedom” he here means the Moral Law, then this passage could indicate that Kant considers the Moral Law to be self-legislated by reason. On closer inspection, however, this does not appear to be the case. Kant generally uses the expression “laws of freedom” to refer to ethical and juridical laws, as distinct from laws of nature.<sup>16</sup> In the passage at issue Kant mentions this distinction between laws of nature and laws of freedom, and later in the same chapter he argues that “a law of nature” serves as the “type” of “a law of freedom” (KpV 5:70). He explains this by saying that in order to assess the moral possibility of one’s maxim of action, one ought to “test” the maxim in light of the form of a law of nature (KpV 5:69–70), to establish whether one can simultaneously will the maxim as a universal law (i.e., as a moral law with the universality of a law of nature). As a result, by “law of freedom” in the passage at issue, Kant seems to mean a substantive moral law, rather than the Moral Law (supreme principle of morality). The passage therefore does not show that Kant describes the Moral Law as self-legislated.

Taking stock, we believe that the overall picture strongly suggests that Kant does not claim that the principle of morality is (or should be regarded as) self-legislated. Although there are passages that, on the face of it, *could* be read as saying that the Moral Law is self-legislated, none of these passages *must* be read this way. More importantly, given the immediate context of the passages, our alternative reading seems more natural and makes better philosophical sense of the text.<sup>17</sup>

16. Thus, he writes in the *Metaphysics of Morals*: “These laws of freedom are called moral laws, to distinguish them from laws of nature. To the extent to which they concern merely external actions and their conformity to law they are called juridical laws; but if they also demand that they (the laws) themselves be the determining grounds of the actions, then they are ethical laws” (MdS 6:214).

17. Thus, we do not claim to have ruled out a nonliteral reading of “self-legislation”

If the argument of this section is convincing, it invalidates the premise underlying much of the debate over the alleged “paradoxical” features of Kant’s moral theory and the alleged “deep tensions” in his theory of autonomy. His theory of autonomy, on the interpretation we propose, does not contain an element of problematic voluntarism that runs counter to the unconditionality of moral obligation. Rather, with the idea of autonomy Kant formulates a counterfactual criterion for determining whether maxims are morally permissible and, through this, for articulating substantive moral laws. Since this criterion is an a priori principle of reason, these moral laws are grounded in reason itself. In section 4, we spell out the implications of this reading for the question of whether Kant’s moral theory is best interpreted as a version of realism or constructivism. Before we do so, however, we consider several possible problems associated with our alternative account.

### 3. Problems and Objections

Since we are arguing for an alternative to a deeply entrenched reading of a central claim of Kant’s ethics, our reading of his conception of autonomy is likely to give rise to several worries and objections. In this section, we will address three possible concerns.

#### 3.1. *Moral autonomy without paradox*

First, one might wonder at this point how much is gained, philosophically, by denying that Kant describes the Moral Law itself as being self-legislated. It might seem that with the interpretation we propose the paradoxical features of the idea of moral self-legislation simply re-emerge at the level of the self-legislation of substantive moral laws. After all, Kant presents substantive moral laws as unconditionally valid too. If, as critics have alleged, a law’s unconditional validity cannot be

reconciled with its being self-legislated, then it would seem that this is equally problematic in the case of moral laws.

There are two reasons, however, to think that the problems connected with the thesis that the Moral Law is self-legislated do not affect Kant’s conception of autonomy as we understand it. First, it is important to emphasize that almost all of the passages discussed in the previous sections suggest that the idea of self-legislation is part of a process of *counterfactual* reasoning, or a thought experiment. In the passages discussed above, Kant writes that we should *regard* or *consider* the will as self-legislating, or *regard* ourselves as giving universal law (G 4:431, 433, 434, 438), and that we should proceed *as if* we were legislating members of a realm of ends (G 4:438). He does not claim that humans in fact give moral laws; rather, we are to counterfactually assume that we are legislating universal law through our maxim and then ask whether it is still possible, on this assumption, to will to act on that maxim without self-contradiction. If so, the action is permitted; if not, the action is forbidden (G 4:439). Thus, the idea of autonomy serves to articulate a *criterion* in light of which we are to determine the moral permissibility of our maxims. This use of the idea of autonomy does not come with the problematic implication that the unconditional validity of moral laws depends on any real *act* of self-binding on the part of human agents.

Second, this account also explains why we are not at liberty to abolish our substantive moral duties. The binding force of moral laws derives from the criterion articulated in the Moral Law, not from an act of will. As moral subjects, Kant maintains, we are bound by the Moral Law, so we have no moral alternative but to act on maxims that meet the criterion it articulates. At the same time, our account captures what many have found attractive about Kant’s account of moral autonomy, namely that it avoids characterizing moral obligations as alien impositions. If the Moral Law is a fundamental principle of pure practical reason — a possibility we explore in more detail below — moral laws that derive from it are not external impositions. Rather, they can

---

of the Moral Law (as developed, for instance, by Reath 2013). Rather, on our view discussing such a reading is unnecessary because Kant nowhere unequivocally claims that the Moral Law is self-legislated in the first place.

be regarded as self-legislated (in the sense specified above) in accordance with a fundamental principle that is *not* self-legislated but valid a priori.

### 3.2. *One obligation too many?*

Second, there is the worry that our reading leads to what we might call “one obligation too many”.<sup>18</sup> On the account we defend in this essay, one is morally obligated to act in accordance not only with the Moral Law but also with moral laws in the plural. Doesn’t this mean that *in addition* to the obligation, say, not to lie, one is *also* obligated to act in accordance with the Moral Law? It seems that one of these two obligations must be empty and thus superfluous.

In reply, we would like to point out, first, that if this really is a problem, it arises for any reading of Kant’s ethics, since the distinction between the Moral Law (or Categorical Imperative) and moral laws (or duties) is a structural feature of Kant’s ethics quite independently of whether the Moral Law is self-legislated.

But, second, from this feature it does not follow that there are two distinct obligations here; there is only one, described at different levels of generality. As Kant points out, there is a sense in which there is only “a single” Categorical Imperative (G 4:421), but this does not prevent him from speaking of specific categorical imperatives in the plural (e.g. G 4:425), such as the imperatives to develop one’s talents and to help people in need (G 4:422–3). In fact, Kant suggests that all moral commands (“all imperatives of duty”) can be “derived from” the Categorical Imperative as their “principle” (G 4:421). There is therefore a sense in which we only have one moral obligation, namely to act in accordance with the Moral Law. But acting in accordance with the Moral Law requires us to act on maxims that meet the criterion it articulates, such as the maxim to develop one’s talents or the maxim to help others in need. These substantive moral requirements do not

state new obligations *in addition* to the obligation to act in accordance with the Moral Law; rather, they are its concrete instantiations.

### 3.3. *Law without a legislator?*<sup>19</sup>

Our claim that the Moral Law, according to Kant, is a fundamental a priori principle of reason, the normative force of which derives neither from its being self-legislated nor from its being legislated by anyone or anything else, raises the question of whether Kant can allow for a law without a legislator. On traditional conceptions, both laws of nature and moral laws are conceived of as legislated by God. While Kant turned away from this tradition, he may still have retained the idea that all laws need to be legislated by someone or something. For instance, he writes that the laws of nature are legislated by the understanding and the moral laws by practical reason (see KrV A840/B868; KU 5:174–5), which might be taken to imply that the Moral Law must likewise be legislated and have a legislator. This does not follow, however. First, compare the case of the principles of logic, which Kant repeatedly refers to as “laws” (e.g., L 9:15). Nothing suggests that he held that the laws of logic have a legislator, so he seems to have allowed for the possibility of laws without a legislator. Second, when Kant does discuss a legislator of moral laws, this legislator is *God* (see KpV 5:129; Rel 6:99; MdS 6:227). Kant makes it very clear, however, that moral laws do not owe their binding force to their being legislated by God. His point is that it is possible (and perhaps even morally necessary) to “consider” or “think of” them as given by God. Importantly, the thought of God as legislator is not supposed to account for the content or the normative validity of moral laws. As Kant puts it, God must be conceived as legislating only “genuine duties” — that is, duties that hold independently of his legislation (Rel 6:99). Kant argues in the Powalski Lectures on Practical Philosophy that both the “principle of morality” and the moral laws are “original” and “exist in and of themselves”; they do not depend on God’s legislation but the other way

18. We thank Eric Watkins for raising this worry.

19. Thanks to Eric Watkins and an anonymous reviewer for pressing this issue.



around (27:135–6). Thus, even in passages where Kant discusses the idea of God as a moral legislator, the content and normative validity of the moral principle (*the Moral Law*) and moral laws (in the plural) are *presupposed* and viewed as *guiding* God's assumed legislative activity rather than being dependent on it. In sum, Kant indeed suggests that the Moral Law is a law independently of any legislator.

#### 4. Beyond Realist and Constructivist Interpretations

##### 4.1. The apriority of the Moral Law

Above, we pointed out that an account of the Moral Law as non-heteronomous does not entail the view that it is self-legislated. We claimed that there is an overlooked third possibility, namely that the principle of morality is a fundamental a priori principle of pure practical reason and that its authority does not derive from anything more fundamental at all. Still, without any further description of the status of the Moral Law, this third possibility remains somewhat mysterious. In this section, we explain what it would mean for the Moral Law to be a fundamental a priori principle that is not grounded in anything else and we present textual evidence that Kant indeed describes it as such.

It is instructive to start by looking at other principles in Kant's philosophical system that have the status of fundamental, underived a priori principles, such as the "supreme principle of all analytic judgments" (KrV A150/B189; that is, the principle of non-contradiction), and the "supreme principle of all synthetic judgments", according to which "every object stands under the necessary conditions of the synthetic unity of the manifold of intuition in a possible experience" (KrV A158/B197). Kant refers to these a priori "supreme" principles as "*Grundsätze*" since they serve as the *ground* (*Grund*) for other judgments and derivative principles, but are not themselves grounded in other a priori judgments or principles. Kant explains the status of such principles as follows:

A priori fundamental principles (*Grundsätze*) bear this name not merely because they contain in themselves the grounds of other judgments, but also because they are not themselves grounded (*gegründet*) in higher and more general cognitions. (KrV A148/B188)

Such fundamental a priori principles cannot be proven by appeal to more general principles that serve as their grounds. Kant argues, however, that it is nevertheless possible to defend such principles in terms of the "subjective sources of the possibility" (KrV A149/B188) of specific types of judgments. That is what Kant proceeds to do for the two "supreme" principles just mentioned, by showing that they serve as sufficient conditions of the truth of analytic and synthetic a priori judgments, respectively (KrV A150/B189–A158/B197). And while Kant claims that "the law of nature" is "legislated" by human reason (e.g., KrV A840/B868), there is no indication that he conceives of the two "supreme" principles as legislated by anything or anyone. In terms of the *Groundwork's* autonomy/heteronomy distinction, these principles are neither heteronomous impositions nor the result of self-legislation (nor are they to be "regarded" as such). Kant describes these principles as being valid a priori and aims to establish this by providing a transcendental argument to the effect that they make possible specific types of judgments.

Kant similarly characterizes the Moral Law as a fundamental or supreme principle that is valid a priori. In the *Groundwork*, he generally refers to it as the a priori "principle of morality" (*Prinzip der Moralität*, G 4:392; *Prinzip der Sittlichkeit*, G 4:410, 426, 432, 436, 440, 441, 445, 447, 453; *Prinzip aller Pflicht*, G 4:425). In the *Critique of Practical Reason* Kant calls the Moral Law an a priori *Grundgesetz* — namely, the "fundamental law of pure practical reason" (KpV 5:30), and he also refers to it as the "supreme" principle of practical reason and morality (KpV 5:46, 83, 91, 93), suggesting that it grounds specific moral laws without itself being grounded in any more general practical principle.

Indeed, Kant argues that the binding force of this fundamental law cannot be “explained” or “justified” (G 4:459–62) in any way. He asks, in the third part of the *Groundwork*, “How is a Categorical Imperative possible?” (G 4:453). Since an “explanation” (*Erklärung*) of this fundamental principle is impossible, Kant’s answer proceeds in terms of the subjective sources of the possibility of the validity of such a principle, namely the *interest* that we *take* in the principle (G 4:461). He asserts:

This much only is certain: that it is not *because the law interests* us that it has validity for us (...), but that it interests because it is valid for us as human beings, since it has its source in our will as intelligence and so in our proper self. (G 4:460–1, orig. emphasis)

Importantly, Kant’s argument here does not appeal to the idea that the Moral Law is (or should be regarded as) “self-legislated”. If Kant did think that the binding force of the Categorical Imperative derived from an act of self-legislation, the third part of the *Groundwork* would be the place for him to say so. After all, as he explicitly notes, the second part of the *Groundwork*, where he introduces the notion of autonomy, is *not* concerned with the validity or binding force of the Moral Law (G 4:440, 445); rather, it elaborates the *content* of the principle of morality while abstracting entirely from questions regarding its obligatory force (*ibid.*). When Kant finally turns to these questions in the third part, however, he nowhere suggests that the binding force of the Moral Law is due to its being “self-legislated”. Rather, he describes the Moral Law as a principle of practical reason that we take an interest in “because it is valid for us” (G 4:461).

In the *Critique of Practical Reason*, moreover, Kant writes with reference to the Moral Law that any “justification of its objective and universal validity” is impossible (KpV 5:46, 47). The Moral Law is the “fundamental law of pure practical reason” itself, and it is impossible to explain or justify “fundamental powers” (*Grundvermögen*). But the Moral Law “does not need any justifying grounds”, he continues, because we are “a priori conscious” of it (KpV 5:47). Kant claims that human

beings become “immediately aware” of the authority of the Moral Law in practical deliberation, “as soon as we draw up maxims of the will for ourselves” (KpV 5:29). This consciousness of moral obligation (our immediate awareness of the Moral Law’s validity) is a “fact” (deed or product) of reason that cannot be derived from any “antecedent data of reason” (KpV 5:31). In short, the Moral Law neither requires nor admits of any further grounding: it is valid a priori. Kant characterizes only substantive moral laws as “grounded”, namely as grounded in practical reason (G 4:452).

Our aim in this section is merely to indicate how Kant describes the status of the principle of morality, namely as a fundamental a priori principle of pure practical reason (and not as “self-legislated”). Given this aim, we shall not engage in detailed comparison of the arguments in the *Groundwork* and the second *Critique* or in discussion of the relation between theoretical and practical principles. It should be noted, however, that Kant repeatedly emphasizes the structural similarities between the roles of theoretical and practical principles (e.g., G 4:454; KpV 5:30, 5:42–6). Kant writes that the pure understanding legislates the a priori laws of nature (Prol 4:319–20) and that pure practical reason can be regarded as legislating the a priori moral laws, with the Moral Law functioning as their basic principle — that is, as the “fundamental law (*Grundgesetz*) of a supersensible nature” (KpV 5:42–6).

#### 4.2. *Is this a realist or a constructivist reading of Kant’s ethics (or neither)?*

In the previous sections, we argued against the widespread view that Kant’s theory of autonomy concerns the origin of the authority of the principle of morality (the Moral Law). Our reading does away with the premise underlying the debate over the allegedly paradoxical features of Kant’s grounding of the Moral Law, namely the premise that it must be either self-legislated or legislated by another. We now want to further clarify the resulting conception of the Moral Law by locating it with respect to the current debate between “realist” and “constructivist” interpretations of Kant, where the former tend to emphasize the independence of moral obligations from human reason and human

cognitive activity in general and the latter characterize moral obligation as being grounded in facts about human reason and agency.<sup>20</sup> In recent years, various authors have defended realist readings of Kant's ethics (e.g., Ameriks 2003; Guyer 2000; Kain 2004; Schönecker 2013; Stern 2010; Wood 1999), most in explicit opposition to constructivist readings (e.g., those offered by Hill 1989; Korsgaard 1996; O'Neill 1989; Rawls 1980; Reath 1994; Sensen 2011).<sup>21</sup> In this section, we briefly explain how our reading differs from both typical realist and typical constructivist interpretations of Kant's ethics (as well as realist and constructivist versions of Kantian ethics), since we reject an assumption shared by most on both sides of the divide.

Let us first turn to realist readings of Kant's ethics, which come in two main varieties. On the one hand, there are realist readings of Kant's ethics that hold that the Moral Law, and moral obligation in general, is *grounded* in one or more objective values that are independent of any volitional act. According to Paul Guyer, for example, the authority of the Moral Law is grounded in the value of freedom; according to Allen Wood, it is grounded in the value of humanity (Guyer 2000; Wood 2008, 109; see also Stern 2012, 90). On the other hand, there are what we might call "intuitionist" readings (e.g., Kain 2010; Schönecker 2013), according to which our cognitive access to the Moral Law (and thus to moral obligations in general) is intuitive or quasi-intuitive and, although of course non-sensible, is thus understood on the model of sense perception. On this kind of reading, our awareness of moral obligation is the result of receptively taking in a principle that holds independently of our receptive access to it. Much more would have to be

said to paint an adequate picture of these realist interpretations. Even without further detail, however, it should be clear that our reading of Kantian autonomy is not committed to realism in either sense. First, on our interpretation, the bindingness of the Moral Law is not grounded in some value, for it is not "grounded" at all. As mentioned above, Kant describes it as a "fundamental" law (*Grundgesetz*) that is not itself "grounded". Second, denying that the Moral Law is self-legislated does not commit one to the view that we receptively become aware of it in an intuitive or quasi-intuitive way. Indeed, Kant says that we are "a priori conscious" of the Moral Law (KpV 5:47) since it is an a priori fundamental principle of pure practical reason, and when he asserts that we are "immediately" aware of it, he adds "as soon as we draw up maxims of the will for ourselves" (KpV 5:29). This indicates that, rather than being receptive, our awareness of the Moral Law arises immediately in practical deliberation, rather than by means of intuition.

Next, let us turn to constructivist readings of Kant's ethics. Again, these come in different varieties. First, there is John Rawls's Kantian constructivism, according to which moral obligations are the outcome of a hypothetical deliberative procedure defined by the Categorical Imperative (the "CI procedure", Rawls 1980). This is a claim not about what grounds the bindingness of the Moral Law but about how to establish particular moral obligations. According to Rawls, the CI procedure is not a mere epistemic tool by which we discover what is morally right. Rather, on his view, moral obligations are the outcome of this procedure. (Note that this kind of constructivism is silent on the status of the Categorical Imperative and the Moral Law itself, since it neither claims nor denies that the Moral Law is self-legislated.) Others defend versions of Kantian constructivism according to which the bindingness of the Moral Law itself is the result of "construction" of some kind, which they explain by appealing to the notion of autonomy (e.g., Korsgaard 1996; O'Neill 2004; Reath 2006). More recently, Christine Korsgaard has argued that the normative authority of the Moral Law should be explained in terms of its necessary role in unifying and

20. Since there does not seem to be a generally accepted way of distinguishing between ethical realism and constructivism, we rest content with this very general description and restrict our discussion to specific positions that are commonly thought of as being either realist or constructivist. For a definition of Kantian constructivism as the view that reasons are "grounded in" a rationally constrained practical point of view, see Schafer 2015.

21. For extended discussions of the debate between realist and constructivist readings of Kant's ethics, see Stern 2012 (from a more realist perspective) and Rauscher 2015 (from a more constructivist perspective).

“constituting” the agent, given the fact that we must act (Korsgaard 2009).<sup>22</sup>

On our reading of Kant’s account of autonomy, Kant is not a constructivist or constitutivist in these senses. Denying that the Moral Law is a heteronomous imposition does not commit him to viewing its bindingness as *grounded* in its relation to our will or in the necessary conditions of agency. After all, the fact that we become aware of the Moral Law in practical deliberation does not imply that its normative validity is grounded in our being agents or practical deliberators, or in the requirements of agency. As mentioned above, Kant indeed denies that it is grounded in anything more fundamental at all.

In sum, denying that the Moral Law is self-legislated does not commit one to a realist interpretation of Kant’s ethics, and denying that the Moral Law is legislated by anything else does not commit one to a constructivist or constitutivist interpretation of Kant’s position on the bindingness of the Moral Law. The forms of realism and constructivism we have considered share the assumption that there must be *something* in which the Moral Law is *grounded*. On the reading we propose in this essay, by contrast, Kant defends an alternative to both realism and constructivism. This is the view that the Moral Law is not grounded in anything, since it is a basic a priori principle, as basic as pure practical reason itself—that is, as basic as it gets in the line of rational argumentation about action. Kant can maintain that the Moral Law is not grounded in anything more fundamental without having to claim that the Moral Law is self-legislated—a claim which, as we have suggested, he does not actually make. We have argued that the

22. As mentioned above, these approaches can avoid interpreting the authority of the Moral Law voluntaristically (e.g., as resulting from arbitrary enactment or endorsement) by claiming that the Moral Law is the principle of self-constitution (Korsgaard 2009, xiii, 213–4), or by emphasizing that what binds the agent is not the mere fact that she plays an active role in moral legislation but the fact that the legislation is “properly enacted”, where a necessary condition of its being properly enacted is that the agent plays an active role in the legislative process (Reath 2006, 95). They retain the idea, however, that the Moral Law is self-legislated in the sense that its normative validity is grounded in the role it plays in agency.

point of Kant’s thesis of the autonomy of the will is not to ground the authority of the Moral Law but to indicate that all substantive moral laws are based in our own will or practical reason. This alternative position only becomes apparent, however, once we acknowledge that Kant did not regard autonomy as consisting in the self-legislation of the Moral Law.<sup>23</sup>

### Works Cited

References to Kant’s works are to *Kant’s gesammelte Schriften*, edited by the Preussische (later Deutsche) Akademie der Wissenschaften (Berlin: Georg Reimer, subsequently Walter de Gruyter, 1900–). References include an abbreviated title and the Akademie volume and page number(s). The only exception is the *Critique of Pure Reason*, for which the page numbers of the first (A) and second (B) editions are provided. Translations are our own, but we have made use of the translations available in the *Cambridge Edition of the Works of Immanuel Kant* (Cambridge: Cambridge University Press, 1992–2016).

Abbreviations: G = *Groundwork for the Metaphysics of Morals*; KpV = *Critique of Practical Reason*; KrV = *Critique of Pure Reason*; KU = *Critique of the Power of Judgment*; L = *Logic*; MdS = *Metaphysics of Morals*; Rel = *Religion within the Boundaries of Mere Reason*.

Allison, Henry E. 1990. *Kant’s Theory of Freedom*. Cambridge: Cambridge University Press.

Ameriks, Karl. 2000. *Kant and the Fate of Autonomy: Problems in the Appropriation of the Critical Philosophy*. Cambridge: Cambridge University Press.

23. This paper grew out of discussions in a research group on the emergence of the Kantian conception of autonomy (see Bacin/Sensen 2018). For helpful comments, we would like to thank the members of that research group, audiences at the Twelfth International Kant Congress in Vienna, the University of Amsterdam, and Keele University, as well as Joel Anderson, Alyssa Bernstein, Stefano Berteau, Jochen Bojanowski, and two anonymous referees for this journal.

- Ameriks, Karl. 2003. *Interpreting Kant's Critiques*. Oxford: Oxford University Press.
- Bacin, Stefano. 2013. "Legge e obbligatorietà: La struttura dell'idea di autolegislazione morale in Kant". *Studi Kantiani* 26: 55–70.
- Stefano Bacin and Oliver Sensen (eds.). 2018. *The Emergence of Autonomy in Kant's Moral Philosophy*. Cambridge: Cambridge University Press.
- Engstrom, Stephen. 2009. *The Form of Practical Knowledge*. Cambridge (Mass.): Harvard University Press.
- Enoch, David. 2006. "Agency, Shmagency: Why Normativity Won't Come from What is Constitutive of Agency". *Philosophical Review* 115: 169–98.
- Guyer, Paul. 2007. *Kant's Groundwork for the Metaphysics of Morals: A Reader's Guide*. London: Continuum.
- Guyer, Paul. 2000. *Kant on Freedom, Law, and Happiness*. Cambridge: Cambridge University Press.
- Hill, Thomas E., Jr. 1989. "Kantian Constructivism in Ethics". *Ethics* 99: 752–70.
- Hill, Thomas E., Jr. 1992. *Dignity and Practical Reason in Kant's Moral Theory*. Ithaca: Cornell University Press.
- Kain, Patrick. 2004. "Self-Legislation in Kant's Moral Philosophy". *Archiv für Geschichte der Philosophie* 86: 257–306.
- Kain, Patrick. 2010. "Practical Cognition, Intuition, and the Fact of Reason". In Benjamin Lipscomb & James Krueger (eds.), *Kant's Moral Metaphysics: God, Freedom, and Immortality*. Berlin: de Gruyter, 211–30.
- Kleingeld, Pauline. 2010. "Moral Consciousness and the 'Fact of Reason'". In Jens Timmermann and Andrews Reath (eds.), *A Critical Guide to Kant's 'Critique of Practical Reason'*. Cambridge: Cambridge University Press, 55–72.
- Kleingeld, Pauline. 2018. "Moral Autonomy as Political Analogy: Self-Legislation in Kant's *Groundwork* and the *Feyerabend Lectures on Natural Law*". In Stefano Bacin and Oliver Sensen (eds.), *The Emergence of Autonomy in Kant's Moral Philosophy*. Cambridge: Cambridge University Press, 158–75.
- Khurana, Thomas. 2013. "Paradoxes of Autonomy". *Symposium* 17: 50–74.
- Klemme, Heiner. 2013. "Moralized Nature, Naturalized Autonomy". In Oliver Sensen (ed.), *Kant on Moral Autonomy*. Cambridge: Cambridge University Press, 193–211.
- Korsgaard, Christine M. 1996. *The Sources of Normativity*. Cambridge: Cambridge University Press.
- Korsgaard, Christine M. 2009. *Self-Constitution: Agency, Identity, and Integrity*. Oxford: Oxford University Press.
- Larmore, Charles. 2012. *Vernunft und Subjektivität*. Berlin: Suhrkamp.
- O'Neill, Onora. 1989. *Constructions of Reason*. Cambridge: Cambridge University Press.
- O'Neill, Onora. 2004. "Autonomy, Plurality and Public Reason". In Natalie Bender and Larry Krasnoff (eds.), *New Essays on the History of Autonomy: A Collection Honoring J.B. Schneewind*. Cambridge: Cambridge University Press, 181–94.
- O'Neill, Onora. 2013. "Postscript: Heteronomy as the Clue to Kantian Autonomy". In Oliver Sensen (ed.), *Kant on Moral Autonomy*. Cambridge: Cambridge University Press, 282–8.
- Pinkard, Terry. 2002. *German Philosophy 1760–1860: The Legacy of Idealism*. Cambridge: Cambridge University Press.
- Pippin, Robert. 2000. "Hegel's Practical Philosophy: The Realization of Freedom". In Karl Ameriks (ed.), *Cambridge Companion to German Idealism*. Cambridge: Cambridge University Press, 180–99.
- Rawls, John. 1980. "Kantian Constructivism in Moral Theory". *Journal of Philosophy* 77: 515–72.
- Reath, Andrews. 1994. "Legislating the Moral Law". *Noûs* 28: 435–64.
- Reath, Andrews. 2006. *Agency and Autonomy in Kant's Moral Theory: Selected Essays*. Oxford: Clarendon Press.
- Reath, Andrews. 2013. "Kant's Conception of Autonomy of the Will". In Oliver Sensen (ed.), *Kant on Moral Autonomy*. Cambridge: Cambridge University Press, 32–52.



- Rauscher, Frederick. 2015. *Naturalism and Realism in Kant's Ethics*. Cambridge: Cambridge University Press.
- Schafer, Karl. 2015. "Realism and Constructivism in Kantian Metaethics". *Philosophy Compass* 10: 690–713.
- Schneewind, Jerome B. 1998. *The Invention of Autonomy: A History of Modern Moral Philosophy*. Cambridge: Cambridge University Press.
- Schönecker, Dieter. 2013. "Kant's Moral Intuitionism: The Fact of Reason and Moral Predispositions". *Kant-Studies Online* 1: 1–38.
- Sensen, Oliver. 2011. *Kant on Human Dignity*. Berlin: De Gruyter.
- Sensen, Oliver (ed.). 2013. *Kant on Moral Autonomy*. Cambridge: Cambridge University Press.
- Stern, Robert. 2012. *Understanding Moral Obligation: Kant, Hegel, Kierkegaard*. Cambridge: Cambridge University Press.
- Timmermann, Jens. 2007. *Kant's Groundwork of the Metaphysics of Morals: A Commentary*. Cambridge: Cambridge University Press.
- Willaschek, Marcus. 1992. *Praktische Vernunft: Handlungstheorie und Moralbegründung bei Kant*. Stuttgart: Verlag J. B. Metzler.
- Wood, Allen W. 1999. *Kant's Ethical Thought*. Cambridge: Cambridge University Press.
- Wood, Allen W. 2008. *Kantian Ethics*. Cambridge: Cambridge University Press.